

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN

IN RE: §
§
Orbit Marketing, LLC § CASE NO.
§ HON.
Debtor(s) §
§

SOLEMN DECLARATION OF JOSHUA THOMPSON

Joshua Thompson declares under penalty of perjury under the laws of the United States of America that the following is true and correct, and states as follows:

1. I am over the age of 18, and competent to testify in a court of law. I am personally familiar with the facts set forth herein, and if called to testify in person I would testify consistently with the following declaration.
2. I am the sole member of Orbit Marketing, LLC.
3. I have directed Orbit Marketing, LLC to file a petition with the United States Bankruptcy Court for the Western District of Michigan seeking relief under chapter 11 of the United States Bankruptcy Code.
4. I have also authorized two of Orbit Marketing, LLC's subsidiaries to file petitions; those subsidiaries are Millers Wholesale, Inc. and Venem, LLC.
5. Orbit Marketing, LLC also owns 100% of the membership interest in the following Michigan limited liability companies:
 - a. Long Island Café, LLC
 - b. Venem, LLC
 - c. Valu Energy, LLC

6. Orbit Marketing, LLC also owns 100% of the issued and outstanding shares of Millers Wholesale, Inc.
7. I have authorized two of the business entities listed in paragraphs 5 and 6 above to file a petition with the United States Bankruptcy Court for the Western District of Michigan seeking relief under chapter 11 of the United States Bankruptcy Code.
8. I have directed that the most recent balance sheet and most recent income / cash flow statement of these entities to be appended to their petitions, as each is a small business debtor as defined by the bankruptcy code. Neither of the entities files separate tax returns as income, if there is any, is attributable to Orbit Marketing, LLC. Orbit Marketing, LLC does not file a separate tax return. No Statement of Operations has been prepared for Millers Wholesale, Inc. or Venem, LLC.
9. In addition to Orbit Marketing, LLC, I own 100% of the membership interest in multiple Michigan limited liability companies, many of which operate businesses that compliment the business of Orbit Marketing, LLC or its subsidiaries.
10. The various entities I directly own and that are subsidiaries of Orbit Marketing, LLC operate in concert with Orbit Marketing, LLC.
11. I have had a very successful professional life, which has included different career tracks. However, throughout my professional life, I have been an entrepreneur. Among other career paths, I have worked as a mortgage broker, and have founded various companies. Among those companies is Orbit Marketing, LLC, the companies it owns, and the other companies I own directly.
12. In addition to owning the business entities set forth above, Orbit Marketing, LLC operates a business selling solar energy systems to individuals and small businesses throughout

Michigan. Orbit Marketing, LLC operates its clean energy sales business under the assumed name “Climax Solar.” Climax Solar’s business territory includes the entire state of Michigan, and much of its business is centered around the Kalamazoo / Battle Creek, and Southwest Michigan region.

13. As I indicated, the businesses all work in concert and many of the businesses share space. For example, my company, Climax Construction, LLC is the contactor that installs the solar energy systems sold by Orbit Marketing, LLC, so that our customers are able to substantially reduce the cost of their electricity and help reduce the impact of fossil fuels on our beautiful Michigan environment. Climax Construction, LLC operates out of the same building as Orbit Marketing, LLC, which houses our showroom. This allows us to increase our efficiency and responsiveness.

14. Another example is my plumbing company, Climax Plumbing, LLC dba Quality Plumbing, which operates out of the building owned by Millers Wholesale, Inc. Millers Wholesale, Inc. was initially a plumbing company also, but Climax Plumbing took over operations to more efficiently use the real estate owned by Millers Wholesale, Inc. and to obtain appropriate advantages that result from separating real estate ownership and operations.

15. Orbit Marketing, LLC and its related entities were doing very well and experiencing significant growth in 2021 and 2022. The growth was fueled by Orbit Marketing, LLC’s substantial sales of clean solar energy systems.

16. During that time period, Orbit Marketing, LLC and I each began acquiring other businesses that either complimented the core business, or presented significant earnings potential. Each of these additional businesses ensured ownership of additional real estate that could

ensure that there would be value for Orbit Marketing, LLC even if the operating business did not become as profitable as I had planned.

17. Venem, LLC and Millers Wholesale, Inc. are two examples of business acquisitions in which real estate ownership and business operations could come together. Orbit Marketing, LLC purchased 100% of the membership interest in Venem, LLC, which was purchasing a building and all the restaurant equipment in the building with frontage on a major road in Portage, MI. Venem, LLC leased the right to operate a restaurant to another company, which was purchased by my son's company, Thompson Marketing, LLC. By virtue of its ownership of Venem, LLC, Orbit Marketing, LLC is purchasing the building on land contract and expects to build significant equity in the real estate.
18. Similarly, Orbit Marketing, LLC acquired 100% of the shares of Millers Wholesale, Inc., which owns a large building in Battle Creek, MI. From the building, I am able to operate Climax Plumbing, LLC.
19. Orbit Marketing, LLC's growth and success led me to rely upon my team more and more, as I hoped to be able to transition into retirement. During 2021 and 2022, the outlook was strong. In 2021, Orbit Marketing, LLC had total sales of over \$21 million and had a net profit of over \$2 million. In 2022, Orbit Marketing, LLC had total sales of over \$37.5 million and a net profit of \$6 million.
20. 2023 proved that my reliance upon the team I had put together and my trust in them had been wildly misplaced. My misplaced trust has quickly led my companies to this place in which bankruptcy is essential to the survival and future success of Orbit Marketing, LLC and its related companies.

21. 2023 started out extremely strong and it appeared that 2023 would rival 2022 for total sales and profitability. During the first two months of 2023, Orbit Marketing, LLC had approximately \$5 million in sales and nearly \$900,000.00 in profit.
22. During March 2023, I realized that some of my top employees, including Orbit Marketing, LLC's controller and Aaron Teachout, my President of operations for all my companies were being disloyal and creating problems in the office. I had not been in the office as often, and now I know I missed the early stages of their destructive behavior. During March 2023, I fired both my controller and Mr. Teachout.
23. During April 2023, I determined that the President of Climax Solar, who resigned during April 2023, was in league with the two disloyal employees. In addition, Edwin Richards, a successful employee at Orbit Marketing, LLC quit during April 2023 as well.
24. During March and April 2023, there were residual sales based upon earlier offers to customers. However, the sales were less lucrative and the total sales for each of those months were lower than expected.
25. Beginning in May 2023, Orbit Marketing, LLC saw a steep and unexpected decline in sales and profitability. The rest of the year saw such a steep decline in sales and profitability that, by June 2023, Orbit Marketing, LLC had to begin laying off significant portions of its staff. Orbit Marketing, LLC began 2023 with over 100 employees handling sales, answering calls, and handling accounting, ordering scheduling Climax Construction, LLC to complete jobs for our customers. Orbit Marketing, LLC ended the year with less than 10 full time employees.
26. In 2023, Orbit Marketing, LLC's gross revenue was \$14,911,629, and its profit was \$1,064,619.87. However, due to the growth of the company and the surrounding

businesses, and the acquisitions, debt service more than ate the profit, and then some, resulting in the accumulation of significant debt to cover operating expenses necessary for a much larger business.

27. As is clear from Orbit Marketing, LLC's financials, when Aaron Teachout and our controller were fired, and after Edwin Richards and the President of Climax Solar left the company, Orbit Marketing, LLC's revenue almost immediately dropped, such that, while they were employed Orbit Marketing, LLC was on track to have gross sales of \$30,000,000.00 or more, as January and February are not ordinarily Orbit Marketing, LLC's biggest months. But after they left, the total sales slumped to the point that Orbit Marketing, LLC did not end up selling even half of what was reasonably expected.
28. All of these individuals had signed Confidentiality, Non-Competition / Non-Solicitation Agreements with Orbit Marketing, LLC. But Aaron Teachout flagrantly and blatantly violated his agreement with Orbit Marketing, LLC. Mr. Teachout breached his agreement with Orbit marketing by carefully and meticulously recruiting Orbit Marketing, LLC's best sales people, financial people and other employees, such as Edwin Richards, to take their knowledge and industry experience with them to a new Solar Energy sales company called Sky Energy, which Aaron Teachout, was starting with another individual named Josh Nowell.
29. Orbit Marketing, LLC filed a lawsuit in the Kalamazoo County Circuit Court, case number 23-0335-CK seeking to enforce the Confidentiality, Non-Competition / Non-Solicitation agreements, and to recover damages from Sky Energy Home Solutions, LLC, Aaron Teachout and Edwin Richards.

30. The Kalamazoo Circuit Court held an evidentiary hearing on Orbit Marketing, LLC's Motion for Temporary Restraining Order, to prevent competition by Sky Energy within Teachout's and Richards' defined radius, to prevent them from using industry knowledge gained from their service to Orbit Marketing, LLC and customer information from Orbit Marketing, LLC to compete against Orbit Marketing, LLC, and to protect Orbit Marketing, LLC's business.

31. After a full evidentiary hearing, the Kalamazoo County Circuit Court granted Orbit Marketing, LLC a temporary restraining order to protect it from Teachout's and Richards' nefarious actions.

32. After entry of the TRO, Teachout, Richards and other former employees of Orbit Marketing set about a campaign of defaming and slandering Orbit Marketing, LLC to Orbit Marketing, LLC's current, former and prospective customers, using information stolen from Orbit Marketing, LLC before Teachout was fired and Richards left his position with Orbit Marketing. This resulted in wild misunderstandings by Orbit Marketing, LLC customers, false complaints to the Michigan Attorney General's office regarding Orbit Marketing, LLC, and a significant decline in Orbit Marketing, LLC's business.

33. Moreover, Teachout, Richards and Nowell, openly flaunted the Kalamazoo County Circuit Court's TRO, and Teachout and Richards continued to flagrantly and blatantly violate the terms of their Confidentiality, Non-Competition / Non-Solicitation Agreements.

34. Late in December 2023, I was contacted by an employee of Sky Energy named Chad Riggs, who agreed to swear an affidavit which clearly lays out direct evidence of a

conspiracy between Nowell, Teachout, Richards and others, to violate the agreements, the TRO and ultimately to undermine and take Orbit Marketing, LLC's business from Orbit Marketing.

35. Among other things, Mr. Riggs states:

- a. Richards, "did not deny" that he stole Orbit Marketing's "entire client list and lead list before [he] left" his employment with Orbit Marketing.
- b. Nowell stated that he, "does not give a f@*k about a non compete as [Sky Energy] is a new company and at anytime [Teachout, Richards, Nowell and others] will just change [the] name and start a new company[.]"
- c. Nowell stated that to avoid the TRO he could "make [Teachout] the President [of Nowell's other company] so that [Orbit Marketing, LLC} could not come after them and there are always ways around a non compete."
- d. On multiple occasions, Teachout, Richards and Nowell, "laughed at the fact that [Sky Energy] were running leads in the areas that the court order said to not work."
- e. Sky Energy knew it was working with at least one of Orbit Marketing, LLC's customers and Teachout said, "he did not give a f@*k" and "go sell to them anyways."
- f. Nowell was aware of Orbit Marketing, LLC's non competes [with Teachout and Richards] when he and Teachout first made plans to form Sky Energy.
- g. The employees who work as installers for Sky Energy "are mostly previous installers for [Orbit Marketing, LLC]" who were directly employed by Climax Construction, LLC.

h. Teachout's and Richards' reaction to the TRO was to say, "f@*k this we are not going to limit our territory ... what is the judge going to do, follow us around?" When they returned from the TRO hearing.

36. Teachout, Nowell and Sky Energy went so far as to set up Aaron Teachout's wife, Danielle as a façade at Sky Energy to make it appear that Aaron Teachout was not violating the TRO.

37. All of this and the involvement of Nowell's other company, Premier Payment Solutions, LLC was brought to the Kalamazoo County Circuit Court in a request to amend Orbit Marketing, LLC's Complaint. Despite the case being almost ready for trial, based on the evidence presented, the Kalamazoo Circuit Judge allowed Orbit Marketing, LLC to amend its complaint and begin further discovery. Orbit Marketing, LLC has since found that many additional former employees of Orbit Marketing, LLC, and doing work for Climax Solar's customers.

38. The rapid decline in sales and the need to layoff a large portion of Orbit Marketing, LLC's staff has resulted in economic problems as reflected in this bankruptcy filing. It has also resulted in a significant difficulty for Orbit Marketing, LLC in generating new business, and has left Orbit Marketing, LLC without a sufficient amount of staff to address customer calls and provide the top quality service that Orbit Marketing, LLC has prided itself in since it began operating.

39. Richards has been arrested for embezzling from Orbit Marketing, LLC.

40. The Teachout and Richards violation of their non competition non solicitation and confidentiality agreements struck a heavy blow, but theirs was not the only breach by

trusted individuals in leadership positions with Orbit Marketing, LLC or its related companies.

41. Not long before I fired Teachout, he had come to me with a business opportunity to purchase a plumbing company called Quality Plumbing, which would operate as a business of Millers Wholesale, Inc. and operate out of the Millers Wholesale, Inc. owned building in Battle Creek. He had a suggestion for a great person to run the plumbing company. I agreed that this was a good idea, and caused Orbit Marketing, LLC to purchase Quality Plumbing and initially set it up to be operated as a part of Millers Wholesale, Inc. I eventually formed Climax Plumbing, LLC and it operates as Quality Plumbing. Doing so protected assets by separating the operating company from the company that owns the real estate.
42. On Teachout's recommendation, I hired and installed Teachout's recommended person as the General Manager of the plumbing company. At that time, I required him to sign a non competition, non solicitation and confidentiality agreement too.
43. Not long after Teachout formed Sky Energy and began competing against Orbit Marketing, LLC, I was shown text messages making clear that the General Manager was going to leave Climax Plumbing, LLC dba Quality Plumbing, to run a new plumbing company. The new plumbing company was owned by Aaron Teachout's father-in-law. The text messages also indicated that multiple employees were leaving to work for the new plumbing company due to the General Manager's solicitation of them, and that the General Manager planned to stay at Climax Plumbing, LLC and run the company into the ground. He hoped this would make it appear that he was not violating his non-

competition, non-solicitation and confidentiality agreement when he left because if Climax Plumbing, LLC failed, he would have no choice but to take another job.

44. Several witnesses came forward indicating that this had been the plan between the General Manager and Aaron Teachout since the time at which Aaron Teachout suggested that Orbit / Millers should purchase Quality Plumbing.
45. Shortly thereafter, the General Manager of the plumbing company and many of our best plumbers left the plumbing company to go work for a new plumbing company formed by the Todd Bayes, who is Aaron Teachout's father-in-law.
46. The new plumbing company took many of Climax Plumbing, LLC's customers and larger accounts, in violation of the non-competition, non-solicitation and confidentiality agreements in place. I have reason to believe that substantial harmful actions were taken while those individuals involved were still employed by Climax Plumbing, LLC.
47. This left Climax Plumbing, LLC unable to pay rent to Millers Wholesale, Inc., and put Orbit Marketing, LLC in a position of having to carry the debt load for Millers Wholesale, Inc.'s building and spend money to rebuild the plumbing company that Orbit Marketing, LLC had loaned the money to purchase as a going concern. Climax Plumbing, LLC lost many of its contracts to the newly formed competing company.
48. 2023 was a learning experience for me. I know that I must be more hands on with the companies I built. But I also recognize that Orbit Marketing, LLC is poised to grow. I believe that restructuring our debt and trimming our operations to focus on what we do best will present an excellent opportunity to grow.
49. We have a number of secured creditors who are counting on payment from us.
50. We plan to grow our workforce to be able to better serve our customers.

51. We also plan to reorganize the companies in order to resolve issues with intercompany loans and how we have funded our growth.

I affirm under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct.

Dated: April 26, 2024

/s/ Joshua Thompson
Orbit Marketing, LLC, Debtor
By: Joshua Thompson
Its: Sole Member